

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CHRISTOPHER GLASS & ALUMINUM, INC.)	
An Illinois corporation,)	
)	
Plaintiff,)	Case No. 16-CV-11532
)	
vs.)	Hon. Virginia M. Kendall
)	
THOMAS O'KEEFE and CHICAGO METRO)	
CONSTRUCTION, INC., d/b/a)	
ARLINGTON GLASS & MIRROR CO.,)	
)	
Defendants.)	

**DEFENDANTS' MOTION TO STRIKE EXCESSIVE PARAGRAPHS IN
PLAINTIFF'S LOCAL RULE 56.1(B)(3)(C) STATEMENT OF ADDITIONAL FACTS**

Defendants, Thomas O'Keefe ("O'Keefe") and Chicago Metro Construction, Inc., d/b/a Arlington Glass & Mirror Co. ("Arlington Glass") by their counsel, moves this Court to strike those paragraphs in Plaintiff's Local Rule 56.1(b)(3)(C) Statement of Additional Facts, that exceed the number of permitted paragraphs in the Local Rule, and in support state as follows:

1. On April 16, 2018, Defendants filed their Motion for Summary Judgment (dkt.110). Defendants' accompanying Local Rule 56.1 Statement of Undisputed Material Facts (dkt. 113) included 74 paragraphs, within the maximum number of 80 permitted under Local Rule 56.1(a)(3)(B).

2. On May 14, 2018, Plaintiff filed its response to the Motion for Summary Judgment, including its Local Rule 56.1(b)(3)(C) Statement of Additional Facts (dkt. 127), which contains 69 numbered paragraphs. Two of those paragraphs, nos. 39 and 40, each contains 11 subparagraphs, with references to separately identified exhibits, that increases the actual number of statements to 91.

3. Plaintiff did not seek prior leave of court to file its Additional Statement of Facts, that far exceed the maximum of 40 set forth in Local Rule 56.1(b)(3)(C).

4. The Court has discretion to enforce Local Rule 56.1 strictly or somewhat leniently, and to determine whether it should “strictly apply or overlook transgressions of local rules, including Local Rule 56.1.” See, *Trade Finance Partners, L.L.C v. AAR Corp.*, 573 F.3d 401, 409 (7th Cir. 2009), quoting *Regan v. Arbitration Forum, Inc.*, 246 F.3d 975, 987 (7th Cir. 2001).

5. Plaintiff’s number of Additional Statement of Facts, so greatly exceeds the prescribed 40, that under the circumstances, it was particularly incumbent on Plaintiff to seek leave to do so in advance. Defendants submit that if such advance leave were requested, it would not have been granted, certainly to the extent of effectively doubling the number of permitted paragraphs. As the Committee Comments to Local Rule 56.1 state: “A party may seek leave to file more asserted statements of fact or additional fact, upon a showing that the complexity of the case requires a relaxation of the 80 or 40 statement limit.”

6. This is simply not a complex case of the sort that warrants an excessive statement of facts. Defendants adhered to the maximum required under the Local Rules, and Plaintiff should be held to the same standard; it certainly could have been done.

7. Defendants request that the Court strike those paragraphs in Plaintiff’s Additional Statement of Facts that exceed 40, and strike those exhibits referred to in the stricken paragraphs that are not otherwise cited in the remaining paragraphs.

8. If the Court is inclined to allow Plaintiff to file the Additional Statement of Facts, after the fact, then Defendants respectfully request a modest amount of additional time to file their Reply, from the current May 28 to May 31, 2018.

WHEREFORE, for the reasons set forth above, Defendants Thomas O’Keefe and Arlington Glass respectfully requests that the Court strike those paragraphs in Plaintiff’s Additional Statement of Facts that exceed the 40 paragraphs permitted under Local Rule 56.1 and strike those exhibits referred to in the stricken paragraphs that are not otherwise cited in the remaining paragraphs, or if the Court were to grant Plaintiff leave to file paragraphs in excess of 40, that Defendants be granted additional time to file their Reply, from May 28 to May 31, 2018, and for such other relief as the Court deems fair and reasonable.

Respectfully submitted,

THOMAS O’KEEFE, and
and CHICAGO METRO CONSTRUCTION, INC.,
d/b/a ARLINGTON GLASS & MIRROR CO.

By: /s/ Daniel J. Fumagalli
One of their attorneys

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